

**IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION**

CIVIL NO. 1:06CV20

STATE OF NORTH CAROLINA, *ex rel.*)

ROY COOPER, Attorney General,)

Plaintiff,)

Vs.)

TENNESSEE VALLEY AUTHORITY,)

Defendant.)

ORDER

THIS MATTER is before the Court on the Plaintiff's motion requesting special trial setting for the first civil trial term of this Court beginning on or after October 1, 2007, and the Defendant's response thereto.

Both parties note that the Fourth Circuit Court of Appeals has now scheduled oral arguments for the week of September 25, 2007, on this Court's request contained in the Order filed September 7, 2006, for a ruling on each of three questions of law deemed to be controlling in this litigation. It is anticipated that the Circuit's ruling will not be forthcoming by October 2007. The Court concludes, therefore, that while a Circuit opinion would

be desirable before a trial date is finalized, it should not delay a trial setting within a reasonable period of time.

IT IS, THEREFORE, ORDERED that the Plaintiff's motion is **DENIED** without prejudice to renewal on or after January 4, 2008.

The Clerk is directed to terminate the trial date of October 1, 2007.

Signed: July 19, 2007

A handwritten signature in black ink, appearing to read 'L. H. Thornburg', written over a horizontal line.

Lacy H. Thornburg
United States District Judge

